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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/772,946	01/31/2001	Thomas Kuehnel	A7832	1472
7590	06/17/2004			
SUGHRUE, MION, ZINN, MACPEAK & SEAS, PLLC 2100 Pennsylvania Avenue, N.W., Washington, DC 20037-3213			EXAMINER FOX, JAMAL A	
			ART UNIT 2664	PAPER NUMBER 2
DATE MAILED: 06/17/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/772,946

Applicant(s)

KUEHNEL, THOMAS

Examiner

Jamal A Fox

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 31 January 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1,7 and 8 is/are allowed.
- 6) ☒ Claim(s) 2-4,9,13 and 14 is/are rejected.
- 7) ☒ Claim(s) 5,6 and 10-12 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 January 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Drawings*

1. New corrected drawings are required in this application because the line quality must be plain and legible. Applicant is advised to employ the services of a competent patent draftsman outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings. The corrected drawings are required in reply to the Office action to avoid abandonment of the application. The requirement for corrected drawings will not be held in abeyance.

### *Claim Rejections - 35 USC § 103*

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 2-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chuah et al (U.S. Patent No. 6,408,001).

Referring to claim 2, Chuah et al. discloses a system for streaming data comprising: a first router (Fig. 5, LSR4 and respective portions of the spec.) that receives input stream traffic and generates a combined data stream (Fig. 5, ref. sign 530) comprising a plurality of data packets (Fig. 5, ref. signs 510, 520 and respective portions of the spec.) that include a first type of data packet (Fig. 5, ref. sign 510) and a second type of data packet (Fig. 5, ref. sign 520), generated in accordance with routing information (Fig. 5 ref. signs 522, 524 and respective portions of the spec.);

an MPLS network (Fig. 4, ref. sign 400) that is coupled to said first router (Fig. 5, LSR4) and receives and transports said combined data stream in accordance with routing information (Fig. 5, ref. sign 532 and respective portions of the spec.); and

a second router (Fig. 5, LSR7 and respective portions of the spec.) coupled to said MPLS network (Fig. 4, ref. sign 400) and generating output stream traffic (Fig. 5 ref. sign 540), but does not explicitly teach of the first router being capable of operating as the second router and the second router being capable of operating as said first router to transport streamed data bidirectionally. However, bidirectional communication between the Internet Telephony Servers that are individually coupled with the routers is disclosed in (col. 4 lines 50-56). Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to have included the first router being capable of operating as the second router and the second router being capable of operating as said first router to transport streamed data bidirectionally because each Internet Telephony Server is coupled with a Label Switching Router. The Internet Telephony Servers create an IP-in-IP tunnel with each other for the transport of IP packets through the routers.

Referring to claim 3, Chuah et al. discloses the system of claim 2, wherein the second type of data packet comprises a label (Fig. 5 ref. sign 542), and a data portion (Fig. 5, ref. sign 520), and the first type of data packet comprises a label (Fig. 5 ref. sign 532), an IP header and a data portion (Fig. 5, ref. sign 520), and wherein the data portion of each of the first type of data packet and the second type of data packet

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comprises at least one of a data payload (Fig. 5, PAYLOAD), control information used to generate the output stream traffic, and an empty payload.

Referring to claim 4, Chuah et al. discloses the system of claim 2, the MPLS network comprising: a routing system that routes the combined data stream (Fig. 11 and respective portions of the spec.); and

at least one router element that is coupled to the MPLS network and one of discards, stores and marks the first type of data packet detected by the routing system for additional processing if an IP header is not detected in accordance with a validity test, and the routing system processes and routes the combined data stream in accordance with an IP header detected in the first type of data packet by the routing system wherein the system operates using a bearer selected in accordance with a traffic type (col. 8 line 41-col. 9 line 16).

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000.

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Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

5. Claims 9, 13 and 14 are rejected under 35 U.S.C. 102(e) as being anticipated by Chuah et al. (U.S. Patent No. 6,408,001).

Referring to claim 9, Chuah et al. discloses a method of streaming data transport over a multi-protocol label switching (MPLS) network (Fig. 4, ref. sign 400), comprising the steps of:

generating a composite data stream comprising a first data packet (Fig. 5 ref. sign 520) adjacent to a plurality of second data packets (Fig. 5 ref. signs 530 and 540) in accordance with a native format (Fig. 5 ref. sign 510) of an incoming data stream; transporting the composite data stream over the MPLS network (Fig. 5, ref. sign 530); and producing output data stream traffic (Fig. 5 ref. sign 540), wherein the MPLS network is configured to transport streamed data bidirectionally (col. 4 lines 50-55).

Referring to claim 13, Chuah et al. discloses the method of claim 9, wherein the first data packet is one of discarded (header removal, col. 8 line 41-col. 9 line 16), stored and marked by a router when said first data packet is not associated with IP header information, in accordance with a validity test (col. 8 line 65-col. 9 line 7).

Referring to claim 14, Chuah et al. discloses the method of claim 9, the step comprising generating the composite data stream (Fig. 5, ref. sign 530) having at least one full-IP data packet (Fig. 5, ref. sign 510) comprising the first step data packet positioned at a predetermined interval with respect to a plurality of labeled data packets

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(Fig. 5 ref. signs 530 and 540) comprising the plurality of second data packets (Fig. 5, ref. sign 520).

***Allowable Subject Matter***

6. Claims 1, 7 and 8 are allowed.
7. Claims 5, 6, 10, 11 and 12 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

8. **Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks  
Washington, D.C. 20231

**or faxed to:**

(703) 305-3988, (for formal communications intended for entry)

**Or:**

(703) 305-3988 (for informal or draft communications, please label "PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA. 22202, Sixth Floor (Receptionist).

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jamal A. Fox whose telephone number is (703) 305-5741. The examiner can normally be reached on Monday-Friday 6:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wellington Chin can be reached on (703) 305-4366. The fax phone numbers for the organization where this application or proceeding is assigned are (703)


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872-9306 for regular communications and (703) 872-9315 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 306-0377.

J.A.F.

**Jamal A. Fox**



WELLINGTON CHIN  
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